

CHAPTER 90  
FINANCIAL INFORMATION REGULATION

**191—90.1(505) Purpose and scope.**

**90.1(1)** This chapter governs the treatment of nonpublic personal financial information about individuals by all licensees of the insurance division.

**90.1(2)** This chapter also applies to nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This chapter does not apply to information about individuals or companies that obtain products or services for business, commercial or agricultural purposes.

**90.1(3)** A licensee domiciled in this state that is in compliance with this chapter shall be deemed to be in compliance with Title V of P.L. 106-102 in a state that has not enacted laws or regulations that meet the requirements of Title V.

**191—90.2(505) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Affiliate”* means any company that controls, is controlled by or is under common control with another company.

*“Clear and conspicuous”* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

*“Collect”* means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying article assigned to the individual, irrespective of the source of the underlying information.

*“Commissioner”* means the insurance commissioner.

*“Company”* means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

*“Consumer”* means an individual, or that individual’s legal representative, who seeks to obtain, obtains or has obtained from a licensee an insurance product or service that is to be used primarily for personal, family or household purposes and about whom the licensee has nonpublic personal information. Consumer includes any of the following:

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

2. An applicant for insurance prior to the inception of insurance coverage is a licensee’s consumer.

3. An individual is a licensee’s consumer if:

- The individual is a beneficiary of a life insurance policy underwritten by the licensee;
- The individual is a claimant under an insurance policy issued by the licensee;
- The individual is an insured or an annuitant under an insurance policy or an annuity, respectively,

issued by the licensee; or

- The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and
- The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under rules 90.12(505), 90.13(505) and 90.14(505) of this chapter.

An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

An individual is not the consumer of the licensee provided that the licensee provides the initial, annual and revised notices required under rules 90.3(505), 90.4(505), and 90.7(505) to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, workers' compensation plan participant, or further, provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under rules 90.12(505), 90.13(505) and 90.14(505) and solely due to any of the following:

- a. The consumer is a participant in or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary,
- b. The consumer is covered under a group or blanket insurance policy or group annuity contract issued by the licensee, or
- c. The consumer is a beneficiary in a workers' compensation plan.

However, an individual described in "a" through "c" is a consumer of a licensee if the licensee does not meet all the above conditions. In no event shall an individual solely by virtue of the status described in "a" through "c" above be deemed a customer for purposes of this chapter.

An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee or because the individual has designated the licensee as trustee for a trust.

"Consumer reporting agency" means "consumer reporting agency" as defined in Section 603(f) of the federal Fair Credit Reporting Act.

"Control" means any of the following:

1. Ownership, control or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;
2. Control in any manner over the election of a majority of the directors, trustees or general partners or individuals exercising similar functions of the company; or
3. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

"Customer" means a consumer who has a customer relationship with a licensee.

"Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides to the consumer one or more insurance products or services that are to be used primarily for personal, family or household purposes.

A consumer has a continuing relationship with a licensee if the consumer is a current policyholder of an insurance product issued by or through the licensee or if the consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

A consumer does not have a continuing relationship with a licensee under the following examples:

1. The consumer applies for insurance but does not purchase the insurance;
2. The licensee sells the consumer airline travel insurance in an isolated transaction;
3. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
4. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;
5. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;
6. The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;
7. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

8. For the purposes of these rules, the individual's last-known address according to the licensee's record is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

*"Designed to call attention"* means a licensee designs to call attention to the nature and significance of the information in a notice if the licensee does the following:

1. Uses a plain-language heading to call attention to the notice;
2. Uses a typeface and type size that are easy to read;
3. Provides wide margins and ample line spacing;
4. Uses boldface or italics for key words; and
5. Is in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

*"Financial institution"* means any institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities described in Section 4(k) of the Bank Holding Company Act of 1956. Financial institution does not include the following:

1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the commodity futures trading commissioner under the Commodity Exchange Act.
2. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971.
3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales including sales of servicing rights, or similar transactions related to a transaction of a consumer as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

*"Financial product or service"* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956. Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

*"Insurance product or service"* means any product or service that is offered by a licensee pursuant to the insurance laws of Iowa. Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

*"Licensee"* means all licensed carriers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of the state or by the department of public health. Licensee shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker but only in regard to the excess lines placements pursuant to state rules.

*"Nonaffiliated third party"* means any person except a licensee's affiliate or a person employed jointly by a licensee and any company that is not a licensee's affiliate. Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) of the federal Bank Holding Company Act or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act.

*"Nonpublic personal information"* or *"nonpublic personal financial information"* means personally identifiable financial information and any list, description or other groupings of consumers and publicly available information pertaining to them that is derived using any personally identifiable financial information that is not publicly available.

Nonpublic personal financial information does not include health information, publicly available information, except as included on a list as described above or any list or description pertaining to consumers that is derived without using any personally identifiable financial information that is not publicly available.

*“Opt out”* means a direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party other than as permitted by rules 90.12(505), 90.13(505), and 90.14(505).

*“Personally identifiable financial information”* means any information a consumer provides to a licensee to obtain an insurance product or service from the licensee, information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer or information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Personally identifiable financial information does not include health information, a list of names and addresses of customers of an entity that is not a financial institution and information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, and addresses.

*“Publicly available information”* means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, widely distributed media sources or disclosures to the general public that are required to be made by federal, state or local law.

*“Reasonably understandable”* means the licensee’s notice is presented in the following form:

1. Using clear, concise sentences, paragraphs, and sections;
2. Using short explanatory sentences or bullet lists whenever possible;
3. Uses definite, concrete, plain language and active voice whenever possible;
4. Avoids multiple negatives;
5. Avoids legal or highly technical business terminology whenever possible; and
6. Avoids explanations that are imprecise and readily subject to different interpretations.

### **191—90.3(505) Initial privacy notice to consumers required.**

**90.3(1)** A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to the following persons and at the following times:

- a.* An individual who becomes the licensee’s customer, not later than when the licensee establishes a customer relationship, except as provided in subrule 90.3(5); and
- b.* A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by rules 90.13(505) and 90.14(505).

**90.3(2)** A licensee is not required to provide an initial notice to a consumer under subrule 90.3(1) if:

- a.* The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party other than as authorized by rules 90.13(505) and 90.14(505) and the licensee does not have a customer relationship with the consumer; or
- b.* A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

**90.3(3)** A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

**90.3(4)** When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subrule 90.3(1) as follows:

*a.* The licensee provides a revised policy notice under rule 90.7(505) that covers the customer's new insurance product or service; or

*b.* If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subrule 90.3(1).

**90.3(5)** A licensee may provide the initial notice required by paragraph 90.3(1)“*a*” within a reasonable time after the licensee establishes a customer relationship if:

*a.* Establishing the customer relationship is not at the customer's election; or

*b.* Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

**90.3(6)** When a licensee is required by this rule to deliver an initial privacy notice, the licensee shall deliver it according to rule 90.8(505). If the licensee uses a short-form initial notice for noncustomers according to subrule 90.5(6), the licensee may deliver its privacy notice according to subrule 90.5(6).

**191—90.4(505) Annual privacy notice to customers required.**

**90.4(1)** A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. “Annually” means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12 consecutive month period, but the licensee shall apply it to the customer on a consistent basis.

**90.4(2)** A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

**90.4(3)** When a licensee is required by this rule to deliver an annual privacy notice, the licensee shall deliver it according to rule 90.8(505).

**191—90.5(505) Information to be included in privacy notices.**

**90.5(1)** The initial annual and revised privacy notices that a licensee provides under rules 90.3(505), 90.4(505) and 90.7(505) shall include each of the following items of information in addition to any other information the licensee wants to provide and that apply to the licensee and to the consumers to whom the licensee sends its privacy notice:

*a.* The categories of nonpublic personal financial information that the licensee collects;

*b.* The categories of nonpublic personal financial information that the licensee discloses;

*c.* The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under rules 90.13(505) and 90.14(505);

*d.* The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under rules 90.13(505) and 90.14(505);

*e.* A separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under rule 90.12(505) and no other exception in rules 90.13(505) and 90.14(505) applies to that disclosure;

*f.* An explanation of the consumer's right under subrule 90.9(1) to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

*g.* Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act;

*h.* The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information; and

*i.* Any disclosure that the licensee makes under subrule 90.5(2).

**90.5(2)** If a licensee discloses nonpublic personal financial information as authorized under rules 90.13(505) and 90.14(505), the licensee is not required to list those exceptions in the initial or annual privacy notices required by rules 90.3(505) and 90.4(505). When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable and permitted by law.

**90.5(3)** If a licensee discloses nonpublic personal financial information under the exception in rule 90.12(505) to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of paragraph 90.5(1) "e" if it does the following:

*a.* Lists the categories of nonpublic personal financial information it discloses using the same categories and examples the licensee used to meet the requirements of paragraph 90.5(1) "b" as applicable; and

*b.* States whether the third party is a service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution or a financial institution with whom the licensee has a joint marketing agreement.

**90.5(4)** If a licensee does not disclose and does not wish to reserve the right to disclose nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under rules 90.13(505) and 90.14(505), the licensee may simply state that fact, in addition to the information it shall provide under paragraphs 90.5(1) "a," "h," and "i" and subrule 90.5(2).

**90.5(5)** A licensee shall describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

*a.* Describes in general terms who is authorized to have access to the information; and

*b.* States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

**90.5(6)** A licensee may satisfy the initial notice requirements in 90.3(1) "b" and 90.6(3) for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt-out notice as required in rule 90.6(505).

*a.* The short-form initial notice shall be clear and conspicuous, state that the licensee's privacy notice is available upon request and explain a reasonable means by which the consumer may obtain that notice.

*b.* The licensee shall deliver its short-form initial notice according to rule 90.8(505). The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to rule 90.8(505).

**90.5(7)** The licensee's notice may include categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future but does not currently disclose and categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

**191—90.6(505) Form of opt-out notice to consumers and opt-out methods.**

**90.6(1)** A licensee required to provide an opt-out notice under subrule 90.9(1) shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that rule. The notice shall state the following:

a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

b. The consumer has the right to opt out of that disclosure; and

c. A reasonable means by which the consumer may exercise the opt-out right.

**90.6(2)** A licensee may provide the opt-out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with rule 90.3(505).

**90.6(3)** If a licensee provides the opt-out notice later than required for the initial notice in accordance with rule 90.3(505), the licensee shall also include in writing or, if the consumer agrees, electronically a copy of the initial notice with the opt-out notice.

**90.6(4)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt-out notice. The licensee's opt-out notice shall explain how the licensee will treat an opt-out direction by a joint consumer.

a. Any of the joint consumers may exercise the right to opt out. The licensee may do either of the following:

(1) Treat an opt-out direction by a joint consumer as applying to all of the associated joint consumers; or

(2) Permit each joint consumer to opt out separately.

b. The licensee shall permit one of the joint consumers to opt out on behalf of all the joint consumers if a licensee permits each joint consumer to opt out separately.

c. A licensee may not require all joint consumers to opt out before it implements any opt-out direction.

**90.6(5)** A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

**90.6(6)** A consumer may exercise the right to opt out at any time.

**90.6(7)** A consumer's direction to opt out under this rule is effective until the consumer revokes it in writing or electronically, if the consumer agrees to revoke electronically.

**90.6(8)** When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt-out direction that applied to the former relationship does not apply to the new relationship.

**90.6(9)** When a licensee is required to deliver an opt-out notice by this rule, the licensee shall deliver it according to rule 90.8(505).

**191—90.7(505) Revised privacy notices.**

**90.7(1)** Except as otherwise authorized in this rule, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under rule 90.3(505) unless the following occur:

a. The licensee has provided to the consumer a clear and conspicuous revised privacy notice that accurately describes its policies and practices;

b. The licensee has provided to the consumer a new opt-out notice;

c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

d. The consumer does not opt out.

**90.7(2)** A revised privacy notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

**90.7(3)** When a licensee is required to deliver a revised privacy notice by this rule, the licensee shall deliver it according to rule 90.8(505).

**191—90.8(505) Delivery of notice.**

**90.8(1)** A licensee shall provide any notices that these rules require so that each consumer can reasonably be expected to receive actual notice in writing, or if the consumer agrees, electronically.

**90.8(2)** A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if one of the following occurs:

*a.* The customer uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the Web site; or

*b.* The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

**90.8(3)** A licensee may not provide any notice required by this rule solely by orally explaining the notice, either in person or over the telephone.

**90.8(4)** For customers only, a licensee shall provide the initial notice required by paragraph 90.3(1) "a," the annual notice required by subrule 90.4(1) and the revised notice required by rule 90.7(505) so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

**90.8(5)** A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee may also provide a notice on behalf of another financial institution.

**90.8(6)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of subrules 90.3(1), 90.4(1) and 90.7(1), respectively, by providing one notice to those consumers jointly.

**191—90.9(505) Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.**

**90.9(1)** A licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party except as otherwise authorized in these rules unless the following occur:

- a.* The licensee has provided to the consumer an initial notice as required under rule 90.3(505).
- b.* The licensee has provided to the consumer an opt-out notice as required in rule 90.6(505).
- c.* The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before the licensee discloses the information to the nonaffiliated third party; and
- d.* The consumer does not opt out.

**90.9(2)** A licensee provides a consumer with a reasonable opportunity to opt out under the following methods:

*a.* The licensee mails the notices required in 90.9(1) to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices.

*b.* A customer opens an on-line account with a licensee and agrees to receive the notices required in 90.9(1) electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.



c. For an isolated transaction such as providing the customer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notice required in 90.9(1) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

**90.9(3)** A licensee shall comply with this rule regardless of whether the licensee and the consumer have established a customer relationship.

**90.9(4)** Unless a licensee complies with this rule, the licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

**90.9(5)** A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

**191—90.10(505) Limits on redisclosure and reuse of nonpublic personal financial information.**

**90.10(1)** In the event a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception to rules 90.13(505) and 90.14(505), the licensee's disclosure and use of that information is limited as follows:

a. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

b. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

c. The licensee may disclose and use the information pursuant to an exception in rule 90.13(505) or 90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

**90.10(2)** In the event a licensee received nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in rules 90.13(505) and 90.14(505), the licensee may disclose the information only as follows:

a. To the affiliates of the financial institution from which the licensee received the information;

b. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

c. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

**90.10(3)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in rules 90.13(505) and 90.14(505), the third party may disclose and use that information only as follows:

a. The third party may disclose the information to the licensee's affiliates;

b. The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

c. The third party may disclose and use the information pursuant to an exception in rules 90.13(505) and 90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

**90.10(4)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in rules 90.13(505) and 90.14(505), the third party may disclose the information only to the following:

- a. The licensee's affiliates;
- b. The third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
- c. Any other person, if the disclosure would be lawful if the licensee made it directly to that person.

**191—90.11(505) Limits on sharing account number information for marketing purposes.**

**90.11(1)** A licensee shall not directly or through an affiliate disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct-mail marketing or marketing through electronic mail to the consumer.

**90.11(2)** The above subrule does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

- a. A licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;
- b. A licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or
- c. A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

**191—90.12(505) Exception to opt-out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.**

**90.12(1)** The opt-out requirements in rules 90.6(505) and 90.9(505) do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions for the licensee on the licensee's behalf, if the licensee does the following:

- a. Provides the initial notice in accordance with rule 90.3(505); and
- b. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in rules 90.13(505) and 90.14(505) in the ordinary course of business to carry out those purposes.

**90.12(2)** The services a nonaffiliated third party performs for a licensee under subrule 90.12(1) may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

**90.12(3)** For purposes of this rule, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

**191—90.13(505) Exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.**

**90.13(1)** The requirements for initial notice in paragraph 90.3(1)"b," for the opt out in rules 90.6(505) and 90.9(505), and for service providers and joint marketing in rule 90.12(505) do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with the following:

- a. Servicing or processing an insurance product or service that a consumer requests or authorizes;
- b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private-label credit card program or other extension of credit on behalf of such entity;
- c. A proposed or actual securitization, secondary market sale including sales of servicing rights, or similar transaction related to a transaction of the consumer; or
- d. Reinsurance or stop loss or excess loss insurance.

**90.13(2)** For purposes of this rule, “necessary to effect, administer or enforce a transaction” means that the disclosure is as follows:

*a.* Required, or is one of the lawful or appropriate methods, to enforce the licensee’s rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

*b.* Required, or is a usual, appropriate or acceptable method, for the following transactions:

(1) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer’s account in the ordinary course of providing the insurance product or service;

(2) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(3) To provide a confirmation, statement or other record of the transaction or information on the status or value of the insurance product or service to the consumer or the consumer’s agent or broker;

(4) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(5) To underwrite insurance at the consumer’s request or for any of the following purposes as they relate to a consumer’s insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits including utilization review activities, participating in research projects or as otherwise required or specifically permitted by federal or state law; or

(6) To disclose in connection with the following:

1. The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

2. The transfer of receivables, accounts or interests therein; or

3. The audit of debit, credit or other payment information.

**191—90.14(505) Other exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information.**

**90.14(1)** The requirements for initial notice to consumers in paragraph 90.3(1) “*b*,” for the opt out in rules 90.6(505) and 90.9(505), and for service providers and joint marketing in rule 90.12(505) do not apply when a licensee discloses nonpublic personal financial information as follows:

*a.* With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

*b.* To protect the confidentiality or security of a licensee’s records pertaining to the consumer, service, product, or transaction;

*c.* To protect against or prevent actual or potential fraud or unauthorized transactions;

*d.* For required institutional risk control or for resolving consumer disputes or inquiries;

*e.* To persons holding a legal or beneficial interest relating to the consumer;

*f.* To persons acting in a fiduciary or representative capacity on behalf of the consumer;

*g.* To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee’s compliance with industry standards, and the licensee’s attorneys, accountants and auditors;

*h.* To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978, to law enforcement agencies including the Federal Reserve Board; Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; the Securities and Exchange Commission; the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II, and 12 U.S.C. Chapter 21, a state insurance authority, and the Federal Trade Commission, selfregulatory organizations or for an investigation on a matter related to public safety;

- i.* To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act;
- j.* From a consumer report reported by a consumer reporting agency;
- k.* In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business unit;
- l.* To comply with federal, state, or local laws, rules and other applicable legal requirements;
- m.* To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;
- n.* To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law;
- o.* For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

**90.14(2)** A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information as permitted under subrule 90.6(6).

**191—90.15(505) Notice through a Web site.** If a licensee provides a notice on a Web site, the licensee shall comply with the above requirements if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the Web site such as text, graphics, hyperlinks or sound do not distract attention from the notice. In addition, the licensee shall either place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted, or place a link on a screen that consumers frequently access that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

**191—90.16(505) Licensee exception to notice requirement.**

**90.16(1)** A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information as follows:

- a.* The licensee is an employee, agent or other representative of another licensee; and
- b.* The other licensee otherwise complies with, and provides the notices required by, the provisions of the rules and the licensee does not disclose any nonpublic personal financial information to any person other than the other licensee or its affiliates in a manner permitted by these rules.

**90.16(2)** An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt-out requirements for nonpublic personal financial information in these rules provided the following:

- a.* The broker or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose including joint servicing or marketing under rule 90.12(505) except as permitted by rule 90.13(505) or 90.14(505); and
- b.* The broker or insurer delivers to the consumer at the time a customer relationship is established a notice on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKER THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

**191—90.17(505) Protection of Fair Credit Reporting Act.** Nothing in these rules shall be construed to modify, limit or supersede the operations of the federal Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of these rules regarding whether information is transaction or experience information under Section 603 of that Act.

**191—90.18(505) Nondiscrimination.** A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of the consumer's or customer's nonpublic personal financial information pursuant to the provisions of this chapter.

**191—90.19(505) Severability.** If any rule or portion of a rule of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of the provision to other persons or circumstances shall not be affected.

**191—90.20(505) Penalties.** An insurer or producer or licensee that violates a requirement of these rules shall be found to have committed a violation of Iowa Code section 507B.4 in addition to any other penalties provided by the laws of this state.

**191—90.21(505) Effective dates.**

**90.21(1)** These rules became effective November 13, 2000. However, in order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of these rules, the commissioner extends the time for compliance until July 1, 2001.

**90.21(2)** A licensee shall provide by July 1, 2001, an initial notice as required by rule 90.3(505) to consumers who are the licensee's customers on July 1, 2001.

**90.21(3)** Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of paragraph 90.12(1) "a," even if the contract does not include a requirement that the third party maintain confidentiality of nonpublic personal financial information, provided that the licensee entered into the agreement on or before July 1, 2001.

These rules are intended to implement 2000 Iowa Acts, chapter 1023, section 5, and P.L. 106-102.

[Filed emergency 11/9/00—published 11/29/00, effective 11/13/00]

CHAPTERS 91 to 99

Reserved

CHAPTER 100

COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM

Rescinded IAB 5/3/00, effective 6/7/00